

1 AN ACT concerning bonds.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Public Construction Bond Act is amended  
5 by changing Section 3 as follows:

6 (30 ILCS 550/3)

7 Sec. 3. Builder or developer cash bond or other surety.

8 (a) A county or municipality may not require a cash  
9 bond, irrevocable letter of credit, surety bond, or letter of  
10 commitment issued by a bank, savings and loan association,  
11 surety, or insurance company from a builder or developer to  
12 guarantee completion of a project improvement when the  
13 builder or developer has filed with the county or municipal  
14 clerk a current, irrevocable letter of credit, surety bond,  
15 or letter of commitment issued by a bank, savings and loan  
16 association, surety, or insurance company, deemed good and  
17 sufficient by the county or municipality accepting such  
18 security, in an amount equal to or greater than 110% of the  
19 amount of the bid on each project improvement. A builder or  
20 developer has the option ~~may elect~~ to utilize a cash bond, an  
21 irrevocable letter of credit, surety bond, or letter of  
22 commitment, issued by a bank, savings and loan association,  
23 surety, or insurance company, deemed good and sufficient by  
24 the county or municipality, to satisfy any cash bond  
25 requirement established by a county or municipality. Except  
26 for a municipality or county with a population of 1,000,000  
27 or more, the county or municipality must approve and deem a  
28 surety or insurance company good and sufficient for the  
29 purposes set forth in this Section if the surety or insurance  
30 company is authorized by the Illinois Department of Insurance  
31 to sell and issue sureties in the State of Illinois.

1           (b) If a county or municipality receives a cash bond,  
2           irrevocable letter of credit, or surety bond from a builder  
3           or developer to guarantee completion of a project  
4           improvement, the county or municipality shall (i) register  
5           the bond under the address of the project and the  
6           construction permit number and (ii) give the builder or  
7           developer a receipt for the bond. The county or municipality  
8           shall establish and maintain a separate account for all cash  
9           bonds received from builders and developers to guarantee  
10          completion of a project improvement.

11          (c) The county or municipality shall refund a cash bond  
12          to a builder or developer, or release the irrevocable letter  
13          of credit or surety bond, within 60 days after the builder or  
14          developer notifies the county or municipality in writing of  
15          the completion of the project improvement for which the bond  
16          was required. For these purposes, "completion" means that the  
17          county or municipality has determined that the project  
18          improvement for which the bond was required is complete or a  
19          licensed engineer or licensed architect has certified to the  
20          builder or developer and the county or municipality that the  
21          project improvement has been completed to the applicable  
22          codes and ordinances. The county or municipality shall pay  
23          interest to the builder or developer, beginning 60 days after  
24          the builder or developer notifies the county or municipality  
25          in writing of the completion of the project improvement, on  
26          any bond not refunded to a builder or developer, at the rate  
27          of 1% per month.

28          (d) A home rule county or municipality may not require  
29          or maintain cash bonds, irrevocable letters of credit, surety  
30          bonds, or letters of commitment issued by a bank, savings and  
31          loan association, surety, or insurance company from builders  
32          or developers in a manner inconsistent with this Section.  
33          This Section supercedes and controls over other provisions of  
34          the Counties Code or Illinois Municipal Code as they apply to

1 and guarantee completion of a project improvement that is  
 2 required by the county or municipality, regardless of whether  
 3 the project improvement is a condition of annexation  
 4 agreements. This Section is a denial and limitation under  
 5 subsection (i) of Section 6 of Article VII of the Illinois  
 6 Constitution on the concurrent exercise by a home rule county  
 7 or municipality of powers and functions exercised by the  
 8 State.

9 (Source: P.A. 89-518, eff. 1-1-97; 90-558, eff. 12-12-97.)

10 Section 10. The Counties Code is amended by changing  
 11 Sections 5-1041 and 5-1123 as follows:

12 (55 ILCS 5/5-1041) (from Ch. 34, par. 5-1041)

13 Sec. 5-1041. Maps, plats and subdivisions. A county board  
 14 may prescribe, by resolution or ordinance, reasonable rules  
 15 and regulations governing the location, width and course of  
 16 streets and highways and of floodplain, stormwater and  
 17 floodwater runoff channels and basins, and the provision of  
 18 necessary public grounds for schools, public libraries, parks  
 19 or playgrounds, in any map, plat or subdivision of any block,  
 20 lot or sub-lot or any part thereof or any piece or parcel of  
 21 land, not being within any city, village or incorporated  
 22 town. The rules and regulations may include such reasonable  
 23 requirements with respect to water supply and sewage  
 24 collection and treatment as may be established by the  
 25 Environmental Protection Agency, and such reasonable  
 26 requirements with respect to floodplain and stormwater  
 27 management as may be established by the County Stormwater  
 28 Management Committee established under Section 5-1062 of this  
 29 Code, and such reasonable requirements with respect to street  
 30 drainage and surfacing as may be established by the county  
 31 engineer or superintendent of highways and which by  
 32 resolution shall be deemed to be the minimum requirements in

1 the interest of the health, safety, education and convenience  
2 of the public of the county; and may provide by resolution  
3 that the map, plat or subdivision shall be submitted to the  
4 county board or to some officer to be designated by the  
5 county board for their or his approval. The county board  
6 shall have a qualified engineer make an estimate of the  
7 probable expenditures necessary to enable any person to  
8 conform with the standards of construction established by the  
9 board pursuant to the provisions of this Section. Except as  
10 provided in Section 3 of the Public Construction Bond Act,  
11 each person who seeks the county board's approval of a map,  
12 plat or subdivision shall post a good and sufficient cash  
13 bond, irrevocable letter of credit, surety bond, or other  
14 adequate security with the county clerk, in a penal sum  
15 sufficient to cover the estimate of expenditures made by the  
16 estimating engineer. The cash bond, irrevocable letter of  
17 credit, surety bond, or other adequate security shall be  
18 conditioned upon faithful adherence to the rules and  
19 regulations of the county board promulgated pursuant to the  
20 authorization granted to it by this Section or by Section  
21 5-1062 of this Code, and in such cases no such map, plat or  
22 subdivision shall be entitled to record in the proper county  
23 or have any validity until it has been so approved. If the  
24 county board requires a cash bond, letter of credit, surety,  
25 or any other method to cover the costs and expenses and to  
26 insure completion of the requirements, the requirements shall  
27 be subject to the provisions of Section 5-1123 of this Code.  
28 This Section is subject to the provisions of Section 5-1123.

29 The county board may, by resolution, provide a schedule  
30 of fees sufficient to reimburse the county for the costs  
31 incurred in reviewing such maps, plats and subdivisions  
32 submitted for approval to the county board. The fees  
33 authorized by this Section are to be paid into the general  
34 corporate fund of the county by the party desiring to have

1 the plat approved.

2 No officer designated by a county board for the approval  
3 of plats shall engage in the business of surveying, and no  
4 map, plat or subdivision shall be received for record or have  
5 any validity which has been prepared by or under the  
6 direction of such plat officer.

7 It is the intention of this amendatory Act of 1990 to  
8 repeal the language added to Section 25.09 of "An Act to  
9 revise the law in relation to counties", approved March 31,  
10 1874, by P.A. 86-614, Section 25.09 of that Act being the  
11 predecessor of this Section.

12 (Source: P.A. 90-558, eff. 12-12-97; 91-328, eff. 1-1-00.)

13 (55 ILCS 5/5-1123)

14 Sec. 5-1123. Builder or developer cash bond or other  
15 surety.

16 (a) A county may not require a cash bond, irrevocable  
17 letter of credit, surety bond, or letter of commitment issued  
18 by a bank, savings and loan association, surety, or insurance  
19 company from a builder or developer to guarantee completion  
20 of a project improvement when the builder or developer has  
21 filed with the county clerk a current, irrevocable letter of  
22 credit, surety bond, or letter of commitment, issued by a  
23 bank, savings and loan association, surety, or insurance  
24 company, deemed good and sufficient by the county accepting  
25 such security, in an amount equal to or greater than 110% of  
26 the amount of the bid on each project improvement. A builder  
27 or developer has the option ~~may elect~~ to utilize a cash bond,  
28 an irrevocable letter of credit, surety bond, or letter of  
29 commitment issued by a bank, savings and loan association,  
30 surety, or insurance company, deemed good and sufficient by  
31 the county, to satisfy any cash bond requirement established  
32 by a county. The county must approve and deem a surety or  
33 insurance company good and sufficient for the purposes set

1 forth in this Section if the surety or insurance company is  
2 authorized by the Illinois Department of Insurance to sell  
3 and issue sureties in the State of Illinois.

4 (b) If a county receives a cash bond, irrevocable letter  
5 of credit, or surety bond from a builder or developer to  
6 guarantee completion of a project improvement, the county  
7 shall (i) register the bond under the address of the project  
8 and the construction permit number and (ii) give the builder  
9 or developer a receipt for the bond. The county shall  
10 establish and maintain a separate account for all cash bonds  
11 received from builders and developers to guarantee completion  
12 of a project improvement.

13 (c) The county shall refund a cash bond to a builder or  
14 developer, or release the irrevocable letter of credit or  
15 surety bond, within 60 days after the builder or developer  
16 notifies the county in writing of the completion of the  
17 project improvement for which the bond was required. For  
18 these purposes, "completion" means that the county has  
19 determined that the project improvement for which the bond  
20 was required is complete or a licensed engineer or licensed  
21 architect has certified to the builder or developer and the  
22 county that the project improvement has been completed to the  
23 applicable codes and ordinances. The county shall pay  
24 interest to the builder or developer, beginning 60 days after  
25 the builder or developer notifies the county in writing of  
26 the completion of the project improvement, on any bond not  
27 refunded to a builder or developer, at the rate of 1% per  
28 month.

29 (d) A home rule county may not require or maintain cash  
30 bonds, irrevocable letters of credit, surety bonds, or other  
31 adequate securities from builders or developers in a manner  
32 inconsistent with this Section. This Section supercedes and  
33 controls over other provisions of this Code as they apply to  
34 and guarantee completion of a project improvement that is

1 required by the county. This Section is a denial and  
2 limitation under subsection (i) of Section 6 of Article VII  
3 of the Illinois Constitution on the concurrent exercise by a  
4 home rule county of powers and functions exercised by the  
5 State.

6 (Source: P.A. 89-518, eff. 1-1-97; 90-14, eff. 7-1-97;  
7 90-558, eff. 12-12-97.)

8 Section 15. The Illinois Municipal Code is amended by  
9 changing Sections 11-12-8 and 11-39-3 as follows:

10 (65 ILCS 5/11-12-8) (from Ch. 24, par. 11-12-8)

11 Sec. 11-12-8. Compliance of plat with map; designation of  
12 public lands; approval; bond; order; failure to act upon  
13 plat. The corporate authorities of the municipality shall  
14 determine whether a proposed plat of subdivision or  
15 resubdivision complies with the official map. To secure such  
16 determination, the person requesting the subdivision or  
17 resubdivision shall file four copies of a plat thereof with  
18 the clerk of the municipality, and shall furnish therewith  
19 four copies of all data necessary to show compliance with all  
20 applicable municipal regulations and shall make application  
21 for preliminary or final approval of the proposed plat.

22 Whenever the reasonable requirements provided by the  
23 ordinance including the official map shall indicate the  
24 necessity for providing for a school site, park site, or  
25 other public lands within any proposed subdivision for which  
26 approval has been requested, and no such provision has been  
27 made therefor, the municipal authority may require that lands  
28 be designated for such public purpose before approving such  
29 plat. Whenever a final plat of subdivision, or part thereof,  
30 has been approved by the corporate authorities as complying  
31 with the official map and there is designated therein a  
32 school site, park site or other public land, the corporate

1 authorities having jurisdiction of such use, be it a school  
2 board, park board or other authority, such authority shall  
3 acquire the land so designated by purchase or commence  
4 proceedings to acquire such land by condemnation within one  
5 year from the date of approval of such plat; and if it does  
6 not do so within such period of one year, the land so  
7 designated may then be used by the owners thereof in any  
8 other manner consistent with the ordinance including the  
9 official map and the zoning ordinance of the municipality.

10 The corporate authorities may by ordinance provide that a  
11 plat of subdivision may be submitted initially to the plan  
12 commission for preliminary approval. The application for  
13 preliminary approval shall show location and width of  
14 proposed streets and public ways, shall indicate proposed  
15 location of sewers and storm drains, proposed dedication of  
16 public grounds, if any, lot sizes, proposed easements for  
17 public utilities, and proposed method of sewage and waste  
18 disposal, but need not contain specifications for proposed  
19 improvements.

20 The plan Commission shall approve or disapprove the  
21 application for preliminary approval within 90 days from the  
22 date of the application or the filing by the applicant of the  
23 last item of required supporting data, whichever date is  
24 later, unless such time is extended by mutual consent. If  
25 such plat is disapproved, then within said 90 days the plan  
26 commission shall furnish to applicant in writing a statement  
27 setting forth the reason for disapproval and specifying with  
28 particularity the aspects in which the proposed plat fails to  
29 conform to the ordinances including official map. If such  
30 plat is approved the corporate authority shall accept or  
31 reject said plat within 30 days after its next regular stated  
32 meeting following the action of the plan commission.  
33 Preliminary approval shall not qualify a plat for recording.

34 Application for final approval of a plat shall be made

1 not later than one year after preliminary approval has been  
2 granted. This application must be supported by such drawings,  
3 specifications and bond as may be necessary to demonstrate  
4 compliance with all requirements of this statute and such  
5 regulations as the corporate authorities may provide by  
6 ordinance under authority of this statute. This Section is  
7 subject to the provisions of Section 11-39-3 of this Code.

8 The applicant may elect to have final approval of a  
9 geographic part or parts of the plat that received  
10 preliminary approval, and may delay application for approval  
11 of other parts until a later date or dates beyond one year  
12 with the approval of the municipal authorities; provided, all  
13 facilities required to serve the part or parts for which  
14 final approval is sought have been provided. In such case  
15 only such part or parts of the plat as have received final  
16 approval shall be recorded.

17 When a person submitting a plat of subdivision or  
18 resubdivision for final approval has supplied all drawings,  
19 maps and other documents required by the municipal ordinances  
20 to be furnished in support thereof, and if all such material  
21 meets all municipal requirements, the corporate authorities  
22 shall approve the proposed plat within 60 days from the date  
23 of filing the last required document or other paper or within  
24 60 days from the date of filing application for final  
25 approval of the plat, whichever date is later. The applicant  
26 and the corporate authorities may mutually agree to extend  
27 the 60 day period.

28 Except as provided in Section 3 of the Public  
29 Construction Bond Act, the corporate authorities may provide  
30 that any person, firm or corporation seeking approval of a  
31 subdivision or resubdivision map or plat shall post a good  
32 and sufficient cash bond, irrevocable letter of credit, or  
33 surety bond with the municipal clerk in a penal sum  
34 sufficient to cover the estimate made by the municipal

1 engineer, or other authorized person, of expenditures,  
2 including but not limited to reasonable inspection fees to be  
3 borne by the applicant, necessary to conform to the  
4 requirements established and conditioned upon completion of  
5 said requirements in a reasonable time. The corporate  
6 authorities may, by ordinance, prescribe the form of the cash  
7 bond, irrevocable letter of credit, or surety bond and may  
8 require surety to be approved by the corporate authorities;  
9 provided, that a municipality may permit the depositing of  
10 cash or other security acceptable to the corporate  
11 authorities, to complete the improvements required in lieu of  
12 a bond if it shall so provide by ordinance; and further  
13 provided, that no bond or security shall be required to be  
14 filed until the corporate authorities have approved the plat  
15 in all other respects and have notified the applicant of such  
16 approval. If the corporate authorities require a cash bond,  
17 letter of credit, surety, or any other method to cover the  
18 costs and expenses and to insure completion of the  
19 requirements ~~If the corporate authorities require a cash~~  
20 ~~bond,~~ the requirements requirement shall be subject to the  
21 provisions of Section 11-39-3 of this Code.

22 If the preliminary or final plat is approved, the  
23 municipal clerk shall attach a certified copy of the order or  
24 resolution of approval to a copy of the plat. If the proposed  
25 plat is disapproved, the order or resolution shall state the  
26 reasons for the disapproval, specifying with particularity  
27 the aspects in which the proposed plat fails to conform to  
28 the official map. A copy of the order or resolution shall be  
29 filed in the office of the municipal clerk.

30 If the corporate authorities fail to act upon the final  
31 plat within the time prescribed the applicant may, after  
32 giving 5 days written notice to the corporate authorities,  
33 file a complaint for summary judgment in the circuit court  
34 and upon showing that the corporate authorities have failed

1 to act within the time prescribed the court shall enter an  
2 order authorizing the recorder to record the plat as finally  
3 submitted without the approval of the corporate authorities.  
4 A plat so recorded shall have the same force and effect as  
5 though that plat had been approved by the corporate  
6 authorities. If the corporate authorities refuse to act upon  
7 the final plat within the time prescribed and if their  
8 failure to act thereon is wilful, upon such showing and upon  
9 proof of damages the municipality shall be liable therefor.  
10 (Source: P.A. 90-558, eff. 12-12-97; 91-328, eff. 1-1-00.)

11 (65 ILCS 5/11-39-3)

12 Sec. 11-39-3. Builder or developer cash bond or other  
13 surety.

14 (a) A municipality may not require a cash bond,  
15 irrevocable letter of credit, surety bond, or letter of  
16 commitment issued by a bank, savings and loan association,  
17 surety, or insurance company from a builder or developer to  
18 guarantee completion of a project improvement when the  
19 builder or developer has filed with the municipal clerk a  
20 current, irrevocable letter of credit, surety bond, or letter  
21 of commitment issued by a bank, savings and loan association,  
22 surety, or insurance company, deemed good and sufficient by  
23 the municipality accepting such security, in an amount equal  
24 to or greater than 110% of the amount of the bid on each  
25 project improvement. A builder or developer has the option  
26 may--elect to utilize a cash bond, an irrevocable letter of  
27 credit, surety bond, or letter of commitment, issued by a  
28 bank, savings and loan association, surety, or insurance  
29 company, deemed good and sufficient by the municipality, to  
30 satisfy any cash bond requirement established by a  
31 municipality. Except for a municipality or county with a  
32 population of 1,000,000 or more, the municipality must  
33 approve and deem a surety or insurance company good and

1 sufficient for the purposes set forth in this Section if the  
2 surety or insurance company is authorized by the Illinois  
3 Department of Insurance to sell and issue sureties in the  
4 State of Illinois.

5 (b) If a municipality receives a cash bond, irrevocable  
6 letter of credit, or surety bond from a builder or developer  
7 to guarantee completion of a project improvement, the  
8 municipality shall (i) register the bond under the address of  
9 the project and the construction permit number and (ii) give  
10 the builder or developer a receipt for the bond. The  
11 municipality shall establish and maintain a separate account  
12 for all cash bonds received from builders and developers to  
13 guarantee completion of a project improvement.

14 (c) The municipality shall refund a cash bond to a  
15 builder or developer, or release the irrevocable letter of  
16 credit or surety bond within 60 days after the builder or  
17 developer notifies the municipality in writing of the  
18 completion of the project improvement for which the bond was  
19 required. For these purposes, "completion" means that the  
20 municipality has determined that the project improvement for  
21 which the bond was required is complete or a licensed  
22 engineer or licensed architect has certified to the builder  
23 or developer and the municipality that the project  
24 improvement has been completed to the applicable codes and  
25 ordinances. The municipality shall pay interest to the  
26 builder or developer, beginning 60 days after builder or  
27 developer notifies the municipality in writing of the  
28 completion of the project improvement, on any bond not  
29 refunded to a builder or developer, at the rate of 1% per  
30 month.

31 (d) A home rule municipality may not require or maintain  
32 cash bonds, irrevocable letters of credit, surety bonds, or  
33 letters of commitment issued by a bank, savings and loan  
34 association, surety, or insurance company from builders or

1 developers in a manner inconsistent with this Section. This  
2 Section supercedes and controls over other provisions of this  
3 Code as they apply to and guarantee completion of a project  
4 improvement that is required by the municipality, regardless  
5 of whether the project improvement is a condition of  
6 annexation agreements. This Section is a denial and  
7 limitation under subsection (i) of Section 6 of Article VII  
8 of the Illinois Constitution on the concurrent exercise by a  
9 home rule municipality of powers and functions exercised by  
10 the State.

11 (Source: P.A. 89-518, eff. 1-1-97; 90-558, eff. 12-12-97.)